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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,846	08/21/2001	Dennis Van De Meulenhof	NL000468	7421

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

DANG, KHANH NMN

ART UNIT	PAPER NUMBER
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2111

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,846

Applicant(s)

VAN DE MEULENHOF ET AL.

Examiner

Khanh Dang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

Applicant is required to provide description to each of the boxes shown in the drawings.

Claim Rejections - 35 USC § 112

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-11 are directed to an apparatus. However, the essential structural cooperative relationship(s) between the so-called "status manager," "creation means," status transmission means," "reception means," status reading means," and "status sending means" have been omitted, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 4-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Gibbs.

At the outset, it is noted that similar claims will be grouped together to avoid repetition in explanation.

As broadly drafted and at best the Examiner can ascertain from the language of the claims, claims 1-11 do not define any structure that differs from Gibbs. With regard to claims 1, 5-10, Gibbs discloses a communication system (10a/b/c) comprising a plurality of devices (30 a-f) interconnected via a bus (IEEE 1394 bus), the bus being capable of handling isochronous and asynchronous transmissions, wherein the communication system (10a/b/c) comprises a status manager having status channel creation means (in compliance with 1394 protocol, all isochronous data are transferred via created channels) for creating on the bus an isochronous status channel and having status transmitting means (in compliance with 1394 protocol, all data including status information must be broadcasted via channels) for transmitting status information (system configuration, available bandwidth, capacity, for example) on the isochronous status channel. With regard to claim 9, the on/off status or the bandwidth status or the distance between nodes in the network is readable as the so-called "level of attachment." Note also that nodes in IEEE1394 are "plug and play" nodes.

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With regard to claims 4 and 11, it is clear that all devices or nodes must be able to "read" the status broadcast.

Response to Arguments

Applicants' arguments filed 5/11/2004 have been fully considered but they are not persuasive.

At the outset, Applicants are reminded that claims subject to examination will be given their broadest reasonable interpretation consistent with the specification. *In re Morris*, 127 F.3d 1048, 1054-55 (Fed. Cir. 1997). In fact, the "examiner has the duty of police claim language by giving it the broadest reasonable interpretation." *Springs Window Fashions LP v. Novo Industries, L.P.*, 65 USPQ2d 1862, 1830, (Fed. Cir. 2003). Applicants are also reminded that claimed subject matter not the specification, is the measure of the invention. Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding the prior art. *In re Sporck*, 55 CCPA 743, 386 F.2d, 155 USPQ 687 (1986).

With this in mind, the discussion will focus on how the terms and relationships thereof in the claims are met by the references. Response to any limitations that are not in the claims or any arguments that are irrelevant and/or do not relate to any specific claim language will not be warranted.

The 112 Rejection:

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In response to Applicant's argument regarding omission of structural relationships, whether the "essential elements" defined in the specification or unclaimed essential matter missing from the claims is irrelevant to the issue at question, which is an omission of essential structural cooperative relationships. Further, Applicant did not provide any evidence showing that the essential structural cooperative relationships are included in the claims. In any event, Applicant's attention is again directed to MPEP 2172.01 which clearly states that "a claim which fails to interrelate (emphasis added) essential elements of the invention as defined by applicant(s) in the specification may be rejected under 35 U.S.C. 112, second paragraph, for failure to point out and distinctly claim the invention. See *In re Venezia*, 530 F.2d 956, 189 USPQ 149 (CCPA 1976); *In re Collier*, 397 F.2d 1003, 158 USPQ 266 (CCPA 1968). It is clear that various recited elements function simultaneously, are directly functionally related, directly intercooperate, and/or serve independent purposes. In light from the guidance from MPEP 2172.01, it is clear that a claim may be rejected for failing to interrelate essential structural cooperative relationships if various recited elements, as disclosed, function simultaneously, are directly intercooperate, and/or serve independent purposes. In the instant case, the "elements," identified by the Examiner, function simultaneously, are directly functionally related, directly intercooperate, and/or serve independent purposes as evidenced from the originally filed specification. If Applicant disagrees, it is requested that Applicant provides evidences showing that the identified elements do not function simultaneously, are not directly functionally related, not

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directly intercooperate, and/or not serve independent purposes; and states in the record that this is the case.

The 102 Rejection:

With regard to claim 1, Applicant argued that IEEE 1394 specification does not disclose "isochronous status channel." At the outset, it is noted that all IEEE 1394 device must strictly adhere to the requirements set forth in IEEE 1394 specification. It is also noted that according to IEEE 1394 specification and Applicant's own acknowledgement that IEEE 1394 nodes communicate via channels. In fact, in IEEE 1394, the isochronous resource manager is readable as the "status manager" including the so-called "status channel creation means" and "status transmitting means." The isochronuos resource manager monitors, among other things, the status of available bandwidth and notify the nodes of the remaining bandwidth status. As a matter of fact, the "stream manager" of Gibbs et al. is bandwidth resource manager. See the widely available IEEE 1394 specification or an overview of the IEEE 1394 from the documents cited below. In particular, see IEEE 1394, page 2; and Fire on the Wire, pages 5-7. With regard to claim 4, it is clearly inherent that the nodes must be able to read the information on the available bandwidth, for example, from the isochronous resource manager. See also discussion regarding claim 1. With regard to claim 10, see discussion regarding claim 1. With regard to claim 11, it is clearly inherent that the nodes must be able to read the information on the available

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bandwidth, for example, from the isochronous resource manager. See also discussion regarding claim 1.

Allowable Subject Matter

Claims 2 and 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

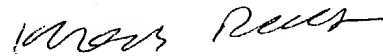
IEEE 1394 from Jaycar Electronics Reference Data Sheet, Fire on the Wire, and IEEE 1394 Serial Bus Controller are cited as relevant art. They present an overview of IEEE 1394 specification.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Khanh
Dang at telephone number 703-308-0211.

A handwritten signature in black ink, appearing to read "Khanh Dang", written in a cursive style.

Khanh Dang
Primary Examiner